

STATE OF MISSOURI  
DEPARTMENT OF NATURAL RESOURCES

Matt Blunt, Governor • Doyle Childers, Director

www.dnr.mo.gov

November 4, 2005

Ms. Julia E. Lamborn-Gettinger  
Midwest Oil Refining Company  
1900 Walton Road  
St. Louis, MO 63114

RE: Variance Petition ENF-05-1V and Order HW-05-2V  
Midwest Oil Refining Company  
St. Louis, Missouri  
EPA ID #MOD006290803

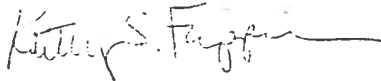
Dear Ms. Lamborn-Gettinger:

The Missouri Department of Natural Resources would like to inform you that on October 17, 2005, the Missouri Hazardous Waste Management Commission signed the above referenced Variance Petition and Order granting the transporter's variance request. Enclosed is a copy of the signed Petition and Order.

If you need further assistance or have any questions, please contact David Giarratano of my staff at (573) 751-2246, via e-mail at david.giarratano@dnr.mo.gov, or via regular mail at the Missouri Department of Natural Resources, Hazardous Waste Program, P.O. Box 176, Jefferson City, Missouri 65102-0176.

Sincerely,

HAZARDOUS WASTE PROGRAM



Kathy S. Flippin  
Chief  
Compliance/Enforcement Section

KSF:cah

Enclosure



REC'D  
NOV 09 2005  
RESP

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bc: Mr. Joe Bindbeutel, Attorney General's Office  
Senator Christopher Bond, U.S. Senate,  
Washington, D.C., and St. Louis District Office  
Congressman Lacy Clay, U.S. House of Representatives,  
Washington, D.C., and St. Louis District Office  
Senator Rita Days, Missouri Senate  
Mayor Bob Dody, City of Overland  
Representative Barbara Fraser, Missouri House  
of Representatives  
Ms. Beth Koesterer, USEPA, Region 7  
Mr. Daniel R. Schuette, DEQ  
St. Louis Regional Office  
Mr. Trent Summers, Commissions and Legislative Liaison,  
Missouri Department of Natural Resources  
Senator Jim Talent, U.S. Senate,  
Washington, D.C., and St. Louis District Office

MISSOURI DEPARTMENT OF NATURAL RESOURCES'  
RECOMMENDATION TO THE MISSOURI HAZARDOUS WASTE MANAGEMENT  
COMMISSION ON MIDWEST OIL REFINING COMPANY  
VARIANCE PETITION ENF-05-1V and ORDER HW-05-2V

## **Introduction**

Midwest Oil Refining Company (Midwest Oil), 1900 Walton Road, St. Louis, Missouri, has requested a variance from Missouri Hazardous Waste Management Regulation 10 CSR 25-12.010(2)(C). The variance request was received May 20, 2005, and was evaluated by the department as required by 10 CSR 25-8.124(5)(B). Midwest Oil is in the recycling business. It hauls only used oil, antifreeze, and kerosene. It has held a Missouri Hazardous Waste Transporter License since 1980, renewing the license annually. From 1997 to 2002, the company's yearly license fee was \$300. Midwest Oil requested and was granted a variance relieving it from paying \$3,322 of the \$3,623 license fee for its new license year beginning June 30, 2004. This variance petition, if granted by the Missouri Hazardous Waste Management Commission (Commission), would give Midwest Oil another one year variance relieving it from the \$3,419 of the \$3,719 license fee calculated for its new license year beginning June 30, 2005. Midwest Oil has paid \$300 for its license for the year beginning June 30, 2005.

## **Background**

Midwest Oil has been in business since 1936 and currently employs six people. It is a used oil refiner and transporter. This small company maintains that it cannot afford the sudden increase in its transporter license annual fees from \$300 under the old per-vehicle calculation (which was in effect until September 2002) to \$3,454 in 2003, \$3,623 in 2004, and \$3,719 in 2005. The latter fees were calculated using total licensed vehicle weight, percentage of company miles in Missouri, and percentage of Missouri loads that are hazardous waste. The company has written that it had to borrow the money in 2003 to pay the license fee but is unable to do so this year. Yet, without the license, the company cannot comply with the regulation requiring full payment of the fee for a transporter license. A hazardous waste transporter license is required to transport used oil.

Because Midwest Oil drives all its miles in Missouri, and because most of the company's loads are hazardous waste, the state mileage and hazardous waste load percentages are very high, resulting in a more than tenfold increase in transporter fees. This is especially hard on a small company whose total yearly mileage of all three trucks combined is only 17,910 miles – about what an average person drives in his own car in a year.

Since Midwest Oil's hazardous waste transporter license was due to expire on June 30, 2005, the department's Hazardous Waste Program (HWP) agreed to accept \$300 temporarily as the renewal license fee pending the Commission's decision on the variance. Payment was made, and the company's transporter license has been renewed, with the possibility of more money due.

The department has determined that this variance petition is "non-substantive" based on state statutory and regulatory criteria. All public notification procedures will be completed. The department is submitting this recommendation to the Commission as required by 10 CSR 25-8.124(5)(C).

## **Recommendation**

The HWP has fully investigated the variance request. This request is a variance from payment of the hazardous waste transporter fee, which is currently calculated based on vehicle weight, percentage of miles in Missouri, and percentage of loads that are hazardous waste. Midwest Oil has paid its previous rate of \$300 and requests a variance from payment of the balance of \$3,419 of the current rate of \$3,719. Midwest Oil has provided the department with sufficient evidence

of its inability to pay the calculated fee of \$3,719. The department had previously reviewed three years of the company's tax forms and schedules to make a determination. Granting this variance will not permit the occurrence or continuance of a condition that unreasonably poses a present or potential threat to the health of humans or other living organisms. The new license fee calculation structure was never intended to place an unbearable financial burden on any company, or cause a company to go out of business. Moreover, there is a need for used oil recyclers and haulers in the state. Midwest Oil is caught in a situation which is not of its own making and which is not the department's aim. Therefore, the department recommends that the Commission grant Midwest Oil's variance petition for a period of one year.

**ORDER (HW-05-2V) The Missouri Hazardous Waste Management Commission hereby approves the recommendation above:**

Signature <u>Noella Huggins</u>	Date <u>10/17/05</u>
Signature <u>[Signature]</u>	Date <u>10/17/05</u>
Signature <u>[Signature]</u>	Date <u>10/17/05</u>
Signature <u>[Signature]</u>	Date <u>10-17-05</u>
Signature <u>Susan B. Williams</u>	Date <u>10-17-05</u>
Signature _____	Date _____
Signature _____	Date _____